

State of Arizona
House of Representatives
Forty-sixth Legislature
First Regular Session
2003

CHAPTER 139

HOUSE BILL 2074

AN ACT

AMENDING SECTIONS 32-1104, 32-1124, 32-1132, 32-1134, 32-1134.01 AND 32-1155,
ARIZONA REVISED STATUTES; RELATING TO THE REGISTRAR OF CONTRACTORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-1104, Arizona Revised Statutes, is amended to
3 read:

4 32-1104. Powers and duties

5 A. The registrar, in addition to other duties and rights provided for
6 in this chapter, shall:

7 1. Maintain an office in Phoenix and in such other cities and towns
8 in the state as the registrar deems advisable and necessary.

9 2. Maintain a complete indexed record of all applications and licenses
10 issued, renewed, terminated, cancelled, revoked or suspended under this
11 chapter, including timely notation of any judicial disposition on appeal, for
12 a period of not less than seven years.

13 3. Furnish a certified copy of any license issued or an affidavit that
14 no license exists or that a license has been cancelled or suspended including
15 information as to the status on appeal of such cancellation or suspension,
16 upon receipt of the prescribed fee, and such certified copy shall be received
17 in all courts and elsewhere as prima facie evidence of the facts stated
18 therein. ~~He~~ THE REGISTRAR shall also furnish certified copies of license
19 bonds or cash deposit certificates upon receipt of the prescribed fee. Fees
20 charged pursuant to this paragraph shall be at a rate of ten dollars per
21 hour, except that the minimum fee charged pursuant to this paragraph shall
22 be ten dollars.

23 4. Employ such deputies, ~~administrative law judges~~, investigators and
24 assistants and procure such equipment and records as are necessary to enforce
25 the ~~provisions of~~ this chapter. With respect to the enforcement of the
26 ~~provisions of~~ section 32-1164, the registrar or ~~his~~ THE REGISTRAR'S
27 investigators are vested with the authority to issue a citation to any
28 violators of this chapter in accordance with the ~~provisions of~~ section
29 13-3903. When the registrar or ~~his~~ THE REGISTRAR'S investigators conduct
30 investigations they are authorized to receive criminal history record
31 information from the department of public safety and other law enforcement
32 agencies.

33 5. Make rules ~~he~~ THE REGISTRAR deems necessary to effectually carry
34 out the provisions and intent of this chapter. Such rules shall include the
35 adoption of minimum standards for good and workmanlike construction. In the
36 adoption of such rules of minimum standards, the registrar shall be guided
37 by established usage and procedure as found in the construction business in
38 this state. If the rules of minimum standards adopted by the registrar are
39 in any manner inconsistent with a building or other code of the state, a
40 county, city or other political subdivision or local authority of the state,
41 compliance with such code shall constitute good and workmanlike construction
42 for the purposes of this chapter.

6. Apply the following to proposed rule changes:

(a) The registrar of contractors shall, at the time he THE REGISTRAR files notice of proposed rule change with the secretary of state in compliance with title 41, chapter 6, mail to each trade association which THAT qualifies in accordance with subdivision (b) of this paragraph, and any other individual holding a bona fide contractor's license who qualifies in accordance with subdivision (b) of this paragraph, a copy of the notice of proposed rule change.

(b) Every trade association in this state allied with the contracting business which THAT files a written request that a notice be mailed to it and shows that the association has an interest in the rules of the registrar of contractors shall receive a copy thereof, as set forth in subdivision (a) of this paragraph. Such filing of a request shall be made each EVERY two years during the month of January, and it shall contain information as to the nature of the association and its mailing address. Any duly licensed contractor who files a written request shall receive a copy of the proposed rule changes in accordance with this paragraph. Each such request shall be made every two years during the month of January.

7. Prepare and furnish decals and business management books when deemed advisable by the registrar. A reasonable fee may be charged for such decals and business management books.

B. THE REGISTRAR MAY DEVELOP AND INSTITUTE PROGRAMS TO DO BOTH OF THE FOLLOWING:

1. EDUCATE THE PUBLIC AND CONTRACTORS LICENSED PURSUANT TO THIS CHAPTER REGARDING STATUTES, RULES, POLICIES AND OPERATIONS OF THE AGENCY.

2. ASSIST IN THE RESOLUTION OF DISPUTES BEFORE A REPORTABLE WRITTEN COMPLAINT IS FILED.

~~B.~~ C. The registrar may adopt rules for the posting of names of applicants and personnel of applicants for contractors' licenses and furnish copies of such posting lists upon written request. The name and address of the applicant, together with the names and addresses and official capacity of all persons associated with the applicant who have signed the application, shall be publicly posted in the place and manner to be prescribed by the registrar for a period of not less than twenty days, except as otherwise provided in this subsection, commencing on the day designated by the registrar of contractors. The registrar may waive a part of the posting period when the records reflect that the applicant or qualifying party has previously undergone the twenty day posting for a previous license. A reasonable charge of not to exceed two dollars per month may be made for compilation, printing and postage for such posting lists.

Sec. 2. Section 32-1124, Arizona Revised Statutes, is amended to read:

32-1124. Issuance and display of license; suspension

A. Upon receipt by the registrar of the fee required by this chapter and an application furnishing complete information as required by the registrar, the registrar shall notify the applicant within sixty days from

1 the date of the filing of a complete application of the action taken on the
2 application, and if the registrar determines that the applicant is qualified
3 to hold a license in accordance with the provisions of this chapter, the
4 registrar shall issue a license to the applicant permitting the applicant to
5 engage in business as a contractor under the terms of this chapter.

6 B. Licenses issued under this chapter and any renewals shall be signed
7 by the registrar or the registrar's designated representative and by the
8 licensee. The license shall be nontransferable, and satisfactory evidence of
9 possession shall be exhibited by the licensee upon demand. The license
10 number appearing on any licenses held by the licensee shall be preceded by
11 the acronym "ROC" and shall be posted in a conspicuous place on premises
12 where any work is being performed, shall be placed on all written bids
13 submitted by the licensee and shall be placed on all advertising, ~~loan forms,~~
14 ~~tending institution forms,~~ letterheads and other documents used by the
15 licensee in the conduct of business regulated by this chapter. A violation
16 of the provisions of this subsection relating to posting and placement of
17 license numbers shall be, at the discretion of the registrar, grounds for
18 disciplinary action pursuant to section 32-1154, subsection A, paragraph 13,
19 but not grounds for preventing the award of a contract, voiding an awarded
20 contract, or any other claim or defense against the licensee.

21 C. If an application for a license is denied for any reason provided
22 in this chapter, the application fee paid by the applicant shall be forfeited
23 and deposited pursuant to section 32-1107. A reapplication for a license
24 shall be accompanied by the fee fixed by this chapter.

25 D. On issuance or renewal of a license, the registrar, at the request
26 of a licensee, shall issue a single license certificate showing all
27 contracting licenses held by the licensee which are currently in good
28 standing and their dates of expiration.

29 E. The registrar may establish procedures to allow a licensee to
30 establish a common expiration or renewal date for all licenses issued to the
31 licensee and may provide for proration of license fees for that purpose.

32 F. The registrar shall suspend by operation of law a license issued
33 under this chapter if any of the following occurs:

34 1. The licensed entity is dissolved. The dissolution of the licensed
35 entity includes the death of a sole owner, a change to the partnership by
36 either adding or removing a partner, the revocation or dissolution of
37 corporate authority or the dissolution of a limited liability company or
38 limited liability partnership.

39 2. The licensed entity does not have authority to do business in this
40 state.

41 3. The license is obtained or renewed with an insufficient funds
42 check. The license remains suspended until the registrar receives a certified
43 check, a money order or cash as payment for the license fees and assessments.

1 Sec. 3. Section 32-1132, Arizona Revised Statutes, is amended to read:
2 32-1132. Residential contractors' recovery fund

3 A. The residential contractors' recovery fund is established, to be
4 administered by the registrar, from which any person injured by an act,
5 representation, transaction or conduct of a residential contractor LICENSED
6 PURSUANT TO THIS CHAPTER that is in violation of this chapter or the rules
7 adopted pursuant to this chapter may be awarded in the county where the
8 violation occurred an amount of not more than thirty thousand dollars for
9 damages sustained by the act, representation, transaction or conduct. An
10 award from the fund is limited to the actual damages suffered by the claimant
11 as a direct result of the contractor's violation but shall not exceed an
12 amount necessary to complete or repair a residential structure or
13 appurtenance within residential property lines. If the claimant has paid a
14 deposit or down payment and no actual work is performed or materials are
15 delivered, the award of actual damages shall not exceed the exact dollar
16 amount of the deposit or down payment plus interest at the rate of ten per
17 cent a year from the date the deposit or down payment is made or not more
18 than thirty thousand dollars, whichever is less. Interest shall not be paid
19 from the fund on any other awards under this chapter unless ordered by a
20 court of competent jurisdiction. An award from the fund shall not be
21 available to persons injured by an act, representation, transaction or
22 conduct of a residential contractor WHO WAS NOT LICENSED PURSUANT TO THIS
23 CHAPTER OR whose license was in an inactive status, expired, cancelled,
24 revoked or, suspended OR NOT ISSUED at the time of the contract. No more
25 than the maximum individual award from the fund shall be made on any
26 individual residence or to any injured person. Notwithstanding any other
27 provision of law, monies in the residential contractors' recovery fund shall
28 not be directly awarded for attorney fees or costs except in contested cases
29 appealed to the superior court.

30 B. Except as provided in section 32-1152, subsection C, every person
31 making application for a contractor's license or for renewal of a
32 contractor's license to engage in residential contracting shall pay an
33 assessment of not more than six hundred dollars during the biennial license
34 period for deposit in the fund. In the event that the registrar does not
35 issue the license, this assessment shall be returned to the applicant.

36 Sec. 4. Section 32-1134, Arizona Revised Statutes, is amended to read:
37 32-1134. Powers and duties of registrar

38 A. The registrar shall:

39 1. ESTABLISH ASSESSMENTS AND maintain the fund BALANCE at a minimum
40 level of ~~two hundred thousand dollars~~ SUFFICIENT TO PAY OPERATING COSTS AND
41 ANTICIPATED CLAIMS USING THE CASH BASIS OF ACCOUNTING.

42 2. ~~Fix assessments basing such assessments on an actuarial projection~~
43 ~~of anticipated claims and an anticipated annual inflation rate of ten per~~
44 ~~cent.~~

1 ~~3. Establish claim reserves based on the incurral date of claims and~~
2 ~~an earned basis of income.~~

3 ~~4. 2. Cause an examination of the fund to be made every three years~~
4 ~~BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT.~~

5 ~~5. 3. File with the department of insurance an annual statement of~~
6 ~~the condition of the fund, prepared in accordance with generally accepted~~
7 ~~accounting principles and showing claim reserves.~~

8 ~~6. 4. Employ accountants and attorneys from monies in the fund, but~~
9 ~~not to exceed ten thousand dollars in any fiscal year, that are necessary for~~
10 ~~the performance of the duties prescribed in this section.~~

11 ~~7. 5. Employ or contract with individuals and procure equipment and~~
12 ~~operational support, to be paid from or purchased with monies in the fund,~~
13 ~~but not to exceed ten per cent of the fund in any fiscal year as may be~~
14 ~~necessary to monitor, process or oppose claims filed by injured persons which~~
15 ~~may result in collection from the recovery fund.~~

16 B. Notwithstanding section 32-1135, the registrar may expend interest
17 monies from the fund to increase public awareness of the fund. This
18 expenditure shall not exceed fifty thousand dollars in any fiscal year.

19 Sec. 5. Section 32-1134.01, Arizona Revised Statutes, is amended to
20 read:

21 32-1134.01. Additional payments to fund

22 If at any time the balance remaining in the residential contractors'
23 recovery fund is less than ~~two hundred thousand dollars~~ TWO MILLION DOLLARS,
24 every residential contractor who paid into the fund pursuant to section
25 32-1132 shall MAY be reassessed in an amount determined by the registrar
26 pursuant to section 32-1134 and shall make the required payment into the
27 fund. The registrar shall suspend a residential contractor's license for
28 failure to make the required payment until the amount owed is paid in full.

29 Sec. 6. Section 32-1155, Arizona Revised Statutes, is amended to read:

30 32-1155. Filing of complaint; resolution of complaint; service
31 of notice; failure to answer

32 A. Upon the filing of a written complaint with the registrar charging
33 a licensee with the commission, within two years prior to the date of filing
34 the complaint, of an act which THAT is cause for suspension or revocation of
35 a license, the registrar after investigation may issue a citation or upon
36 written request of the complainant may issue a citation directing the
37 licensee, within ten days after service of the citation upon him THE
38 LICENSEE, to appear by filing with the registrar his THE LICENSEE'S written
39 answer to the CITATION AND complaint showing cause, if any, why his THE
40 LICENSEE'S license should not be suspended or revoked. Service of citation
41 upon the licensee shall be fully effected BY PERSONAL SERVICE OR by mailing
42 a true copy thereof, together with a true copy of the complaint, by
43 registered mail in a sealed envelope with postage prepaid and addressed to
44 the licensee at his THE LICENSEE'S latest address of record in the

1 registrar's office. Service of the citation AND COMPLAINT shall be complete
2 at the time of the PERSONAL SERVICE OR FIVE DAYS AFTER deposit in the mail.
3 B. Failure of the licensee to answer WITHIN TEN DAYS AFTER SERVICE
4 shall be deemed an admission by him THE LICENSEE of his THE LICENSEE'S
5 commission of the act or acts charged in the complaint and thereupon the
6 registrar may forthwith THEN suspend or revoke his THE LICENSEE'S license.
7 Sec. 7. Emergency
8 This act is an emergency measure that is necessary to preserve the
9 public peace, health or safety and is operative immediately as provided by
10 law.

APPROVED BY THE GOVERNOR MAY 5, 2003.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 5, 2003.

Passed the House February 10, 2003

Passed the Senate April 16, 2003

by the following vote: 56 Ayes,

by the following vote: 30 Ayes,

0 Nays, 3 Not Voting
1 Vacancy
Jake Flake
Speaker of the House

Sporman L. Fyooce
Chief Clerk of the House

0 Nays, 0 Not Voting
With Emergency
Ken Blumenthal
President of the Senate

Charmine Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

 day of , 20 ,

at o'clock M.

Secretary to the Governor

Approved this day of

 , 20 ,

at o'clock M.

Governor of Arizona

H.B. 2074

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this day of , 20 ,

at o'clock M.

Secretary of State

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 29, 2003,

by the following vote: 56 Ayes,

0 Nays, 4 Not Voting
With Emergency

Jake Elake
Speaker of the House
Norman L. Moore
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

29 day of April, 2003

at 11:00 o'clock A M.

Sandra Hamer
Secretary to the Governor

Approved this 5 day of

May, 2003,

at 10:50 o'clock A. M.

Jon R. Rhee
Governor of Arizona

H.B. 2074

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 5 day of May, 2003,

at 3:59 o'clock P M.

James K. Brewer
Secretary of State